

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON MARINE RESOURCES

July 2011

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STAFF:

ALYSON MAYO, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

STATE OF MAINE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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chapter 623 may not label shellfish sold alive with the words "product of Maine" or any similar words that suggest the shellfish was taken from the waters of the State unless the shellfish was in fact taken from the waters of this State;

3. It states that a violation of this provision is a deceptive business practice in violation of Title 17-A, section 901; and

4. It specifies that a violation of this provision that results in a conviction is considered a conviction for a violation of a marine resources law.

Enacted Law Summary

Public Law 2011, chapter 234 does the following.

1. It specifies that a person authorized to hold or possess shellfish under the Maine Revised Statutes, Title 12, chapter 623 may not label shellfish sold alive with the words "product of Maine" or any similar words that suggest the shellfish was taken from the waters of the State unless the shellfish was in fact taken from the waters of this State;

2. It states that a violation of this provision is a deceptive business practice in violation of Title 17-A, section 901; and

3. It specifies that a violation of this provision that results in a conviction is considered a conviction for a violation of a marine resources law.

Public Law 2011, chapter 234 was enacted as an emergency measure effective June 6, 2011.

LD 1462

An Act To Amend the Department of Marine Resources' Administrative Suspension Process

PUBLIC 311

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECTOR	OTP-AM	S-190

LD 1462 amends the ability of the Department of Marine Resources to suspend a license or certificate based on a violation of marine resources law. This bill redirects the license suspension hearing process through the department rather than the District Court for violations of refusing access to department shellfish inspectors. It creates a new administrative hearing process for all other violations of marine resources laws when a license suspension is being considered, clarifies that such suspensions are remedial, and creates a provision to prohibit multiple suspensions for the same violation. It retains the current provision that allows for immediate license or certificate suspension in cases when a person denies the Marine Patrol access for inspection and amends the statute that allows for immediate license suspension when the department's public health division's shellfish inspectors are refused access to a shellfish facility.

Committee Amendment "A" (S-190)

The amendment:

1. States that the Commissioner of Marine Resources' determination of whether a suspension without criminal conviction or civil adjudication is necessary must be based on a preponderance of the evidence;

2. Changes from 3 to 10 the number of business days within which a hearing must be held after the commissioner

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receives a request under the Maine Revised Statutes, Title 12, section 6374;

- 3. States that a hearing may be held more than 10, instead of 3, business days after the request if the delay is requested by the person requesting the hearing;
- 4. Adds that a license or certificate holder may request a hearing regarding the length of suspension within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area; and
- 5. Adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2011, chapter 311 does the following. It:

- 1. Amends the ability of the Department of Marine Resources to suspend a license or certificate based on a violation of marine resources law.
- 2. Redirects the license suspension hearing process through the department rather than the District Court for violations of refusing access to department shellfish inspectors.
- 3. Creates a new administrative hearing process for all other violations of marine resources laws when a license suspension is being considered, clarifies that such suspensions are remedial and creates a provision to prohibit multiple suspensions for the same violation.
- 4. Amends the statute that allows for immediate license suspension when the department's public health division's shellfish inspectors are refused access to a shellfish facility.
- 5. States that the Commissioner of Marine Resources' determination of whether a suspension without criminal conviction or civil adjudication is necessary must be based on a preponderance of the evidence;
- 6. Changes from 3 to 10 the number of business days within which a hearing must be held after the commissioner receives a request under the Maine Revised Statutes, Title 12, section 6374;
- 7. States that a hearing may be held more than 10, instead of 3, business days after the request if the delay is requested by the person requesting the hearing;
- 8. Adds that a license or certificate holder may request a hearing regarding the length of suspension within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

LD 1508 An Act To Ensure Cultchless American Oyster Growers Licenses Are Issued by the Department of Marine Resources Only to Individuals Who Are Growers of American Oysters ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEBSTER GERZOFISKY	ONTP	

LD 1508 clarifies that a person may not grow or harvest cultchless American oysters without a license. This bill also directs the Department of Marine Resources to modify the rules for cultchless American oyster growers licenses